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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DeLeys et al

Atty. Ref.: 2551-141

Serial No. 10/822,871

Group: 1648

Filed: April 12, 2004

Examiner: Unassigned

For: SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS

\* \* \* \* \*

April 27, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE**

In response to the attached Notice Regarding Benefit/Priority Claim(s) mailed September 27, 2004, submitted herewith is a copy of the Notification of Acceptance dated January 6, 1993, issued in application Serial No. 07/920,286, as evidence that the prior-filed application Serial No. 07/920,286 is in fact a U.S. National Phase application of PCT/EP91/02409. The Office is requested to correct the Patent Office's record or advise the undersigned if anything further is required in this regard, and issue a Corrected Filing Receipt as requested July 2, 2004 and in the separately attached new Request.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

A handwritten signature of B. J. Sadoff.

B. J. Sadoff  
Reg. No. 36,663

BJS:pp

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### **U.S.C. 371) Application**

Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a national stage application under 35 U.S.C. 371. The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit such request without such evidence. Applicant should submit an amendment (or an application data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application.

For more information and examples on benefit claims, please see Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office 89 (March 18, 2003), which is available on the USPTO website at <http://www.uspto.gov/web/offices/com/sol/og/2003/week11/patbene.htm>, and the Manual of Patent Examining Procedure (MPEP) §§ 201.11 and 201.14.

### **PART 2 - COPY TO BE RETURNED WITH RESPONSE**



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APR 27 2005  
PATENT AND TRADEMARK OFFICE  
U.S. DEPARTMENT OF COMMERCE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/822,871	04/13/2004	Robert J. Deleys	2551-141

23117  
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ARLINGTON, VA 22201-4714



\*OC00000013916076\*

CONFIRMATION NO. 3673

Date Mailed: 09/27/2004

## Notice Regarding Benefit/Priority Claim(s)

**Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)**

The benefit claim(s) to prior-filed nonprovisional application(s) is improper because there is no specific reference for each prior-filed application that includes: (1) the identification of the prior-filed application by application number, or international application number and international filing date; and (2) a clear indication the relationship (i.e., continuation, divisional, or continuation-in-part) of the nonprovisional applications. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed application(s) as required by 37 CFR 1.78. A proper relationship includes an identification of each nonprovisional application as a continuation, divisional or continuation-in-part application of the immediate prior-filed nonprovisional application for which a benefit is claimed under 37 CFR 1.78 in order to establish copendency throughout the entire chain of prior-filed applications. The specific reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

**Timeliness:** The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed. See 37 CFR 1.78(a).

**Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)**

The benefit claim(s) to prior-filed provisional application(s) is improper because the instant application was not filed within twelve (12) months from the filing date of the provisional application,

and there is no indication of an intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed within 12 months of the filing date of the provisional application. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---, which claims the benefit of U.S. Provisional Application No. 60/---,--- filed---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed applications (including an indication of any intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed with 12 months of the filing date of the provisional application) as required by 37 CFR 1.78. The required reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

**Timeliness:** The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed during the pendency of the instant application.

#### **Improper Priority Claim(s) to Prior-Filed Foreign Application(s)**

The instant application was not filed within twelve (12) months from the filing date of the prior-filed foreign application, and there is no benefit claim to an intermediate nonprovisional application filed within 12 months of the filing date of the foreign application. Applicant should review each priority claim submitted and, if appropriate, provide the proper reference to any intermediate nonprovisional application filed within 12 months of the filing date of the foreign application in compliance with 37 CFR 1.78, or delete the priority claim. The required reference to an intermediate nonprovisional application must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

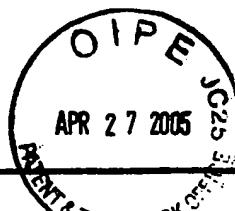
**Timeliness:** The required reference for the benefit claim to an intermediate nonprovisional application must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed.

#### **Benefit Claims to More Than 400 Prior-Filed Applications**

The Office's automated system to record and capture benefit claims is only capable of recording benefit claims for 400 prior-filed applications. Therefore, the Office is unable to generate a filing receipt containing benefit claims for more than 400 prior-filed applications even though applicant is entitled to submit benefit claims for more than 400 prior-filed applications. Accordingly, applicant should not request a corrected filing receipt to include benefit claims for more than 400 prior-filed applications.



**Prior-Filed Nonprovisional Application has been Improperly Indicated as a National Stage (35**

**COPY**

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JAN 08 1993

UNITED STATES DESIGNATED/ELECTED  
OFFICE (DO/EO/US)  
NOTIFICATION OF ACCEPTANCE OF  
APPLICATION UNDER 35 U.S.C. 371  
AND 37 CFR 1.494 OR 1.495

Date of Mailing

6 JAN 1993

File Reference

137.040502

**IDENTIFICATION OF THE INTERNATIONAL APPLICATION**

International application Number	International filing date	Priority date claimed
PCT/EP91/02409	13 DEC 1991	14 DEC 1990

Applicant for DO/EO/US

DELEYNS, ROBERT J. POLLET, DIRK MAERTENS, GEERT AND VAN HELVERSWIJN

**NOTIFICATION**

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a  Designated Office,  Elected Office, has determined that the above identified international application has met the requirements of 35 U.S.C. 371 and 37 CFR  1.494,  1.495 and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Serial Number assigned to the application and the relevant dates are:

01/920286    14 OCT 1992    14 OCT 1992U.S.NATIONAL SERIAL NO.    35 U.S.C. 102(e) DATE    DATE OF RECEIPT 35 U.S.C.  
371 REQUIREMENTS

A request for immediate examination under 35 U.S.C. 371 (f) was received on 14 OCT 1992 and the application will be examined in turn.

No request for immediate examination under 35 U.S.C. 371(f) was received. The application will not be processed or examined before the time limit set forth in either  PCT Article 23 (Chapter I of the PCT), or  PCT Article 40 (Chapter II of the PCT) whichever is applicable.

**UNITED STATES DESIGNATED/ELECTED OFFICE**

ADDRESS ONLY:  
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Box PCT, Attn. DO/EO/US  
Washington, D.C. 20231

AUTHORIZED OFFICER

- Monika J. Drury